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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/437,414

11/10/1999

ALEKSANDER SZLAM

CONCERTO-500AAX

7944

28452

7590

05/17/2006

BOURQUE & ASSOCIATES, P.A.
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MANCHESTER, NH 03104

EXAMINER

ESCALANTE, OVIDIO

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/437,414

Applicant(s)

SZLAM ET AL.

Examiner

Ovidio Escalante

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 93-101 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 93-101 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. This action is in response to applicant's response filed on April 27, 2005. **Claims 93-101** are now pending in the present application.
2. The Art Unit designation of this application has been changed to Art Unit 2614. Please make this change in any future response.

Terminal Disclaimer

3. The terminal disclaimer filed on April 27, 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 5,214,688 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Reissue Applications

4. The reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414.
5. The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following:

Where a continuation reissue application is filed with a copy of the oath/declaration and assignee consent from the parent reissue application, and the parent reissue application is not to be abandoned, the copy of the consent of the parent reissue application should not be accepted. The copy of the consent of the parent reissue application does not indicate that the assignee has consented to the addition of the new error correction of the continuation reissue application to the original patent. Presumably, a new correction has been added, since the parent reissue application is still pending.

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Response to Amendment

6. The amendment filed April 27, 2005 proposes amendments to add claims that do not comply with 37 CFR 1.173(b), which sets forth the manner of making amendments in reissue applications. A supplemental paper correctly amending the reissue application is required. For each new claim added to the reissue by the amendment being submitted (the current amendment), the entire text of the added claim must be presented completely underlined.

7. Applicant is notified that any subsequent amendment to the specification and/or claims must comply with 37 CFR 1.173(b).

Claim Rejections

8. Claims 93-101 rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

Specification

9. Please insert the following paragraph between lines 9 and 10 of Col. 1 in Re. 36,416:

“CROSS-REFERENCE TO RELATED APPLICATIONS”

“US patent application 09/437,414 filed on November 10, 1999 is a continuation of US patent application 08/449,887 from which this Reissue patent issued.”

Allowable Subject Matter

10. In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

11. The following is a statement of reasons for the indication of allowable subject matter:

Independent claim 93 recites processing inbound and outbound calls and a limitation for the following:

“obtaining a statistic on said outbound calls and adjusting said processing of said inbound calls based upon said statistic”.

Independent claims 96 and 99 recites processing inbound and outbound calls and a limitation for the following:

“obtaining a statistic on said inbound calls and adjusting said processing of said outbound calls based upon said statistic”

The prior art of record teaches processing inbound and outbound calls and obtaining statistics on the combination of inbound and outbound calls and using the statistics to process inbound or outbound calls. The prior art of record is different because the static is not based on inbound or outbound calls alone.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7537, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to:

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ovidio Escalante whose telephone number is 571-272-7537. The examiner can normally be reached on M-Th from 6:30AM to 4:00PM. The examiner can also be reached on alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan S Tsang can be reached on 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

OVIDIO ESCALANTE
PATENT EXAMINER

Ovidio Escalante

Ovidio Escalante
Primary Patent Examiner
Group 2614
May 15, 2006

O.E./oe